

used to test children's products for purposes of supporting certification pursuant to section 14(a) of the CPSA and testing to ensure continued compliance pursuant to section 14(i) of the CPSA.

(m) *Traceable* means the ability of a certifier to identify all testing parties of a component part of a consumer product or a finished product, including the name and address of each testing party and any party that conducted testing on the component part or finished product. Parties that conduct testing may include a manufacturer, a supplier, a testing laboratory, or a third party conformity assessment body. Traceability extends to the component part of the product that was tested for compliance, such that if a subassembly is tested, that subassembly must be traceable, not each component part of the subassembly, if those parts were not individually tested for other rules, bans, standards, or regulations.

§ 1109.5 Conditions, requirements, and effects generally.

(a) *Component part testing allowed.* Any party, including a component part manufacturer, a component part supplier, a component part certifier, or a finished product certifier, may procure component part testing as long as it complies with the requirements in this section and subparts B and C of this part. A finished product certifier may certify compliance of a consumer product with all applicable rules, bans, standards, and regulations as required by section 14(a) of the CPSA, and may ensure continued compliance of children's products pursuant to section 14(i) of the CPSA, based, in whole or in part, on passing component part test reports or certification of one or more component parts of a consumer product if the following requirements are met:

(1) Testing of the component part is required or sufficient to assess compliance, in whole or in part, of the consumer product with the applicable rule, ban, standard, or regulation. Any doubts about whether testing one or more component parts of a consumer product is sufficient to assess whether the finished product complies with applicable rules, bans, standards, and reg-

ulations should be resolved in favor of testing the finished product; and

(2) The component part tested is identical in all material respects to the component parts used in the finished consumer product. To be identical in all material respects to a component part for purposes of supporting a certification of a children's product, a sample need not necessarily be of the same size, shape, or finish condition as the component part of the finished product; rather, it may consist of any quantity that is sufficient for testing purposes and be in any form that has the same content as the component part of the finished product.

(b) *Test Result Integrity.* A certifier or testing party must exercise due care to ensure that while a component part or finished product is in its custody:

(1) Proper management and control of all raw materials, component parts, subassemblies, and finished products is established and maintained for any factor that could affect the finished product's compliance with all applicable rules;

(2) The manufacturing process does not add or result in a prohibited level of a chemical from any source, such as the material hopper, regrind equipment, or other equipment used in the assembly of the finished product; and

(3) No action or inaction subsequent to testing and before distribution in commerce has occurred that would affect compliance, including contamination or degradation.

(c) *Limitation.* A certifier must not use tests of a component part of a consumer product for any rule, ban, standard, or regulation that requires testing the finished product to assess compliance with that rule, ban, standard, or regulation.

(d) *Test method and sampling protocol.* Each certifier and testing party must exercise due care to ensure that when it procures a test for use in meeting the requirements of sections 14(a) or 14(i) of the CPSA:

(1) All testing is done using required test methods, if any;

(2) Required sampling protocols are followed, if any; and

(3) Testing and certification follows the applicable requirements in sections 14(a) and 14(i) of the CPSA, and part

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1107 of this chapter or any more specific rules, bans, standards, or regulations, used to assess compliance of the component part or finished product.

(e) *Timing.* Subject to any more specific rule, ban, standard, or regulation, component part testing may occur before final assembly of a consumer product, provided that nothing in the final assembly of the consumer product can cause the component part or the final consumer product to become non-compliant.

(f) *Traceability.* A certifier must not rely on component part or finished product testing procured by a testing party or another certifier unless such component parts or finished products are traceable.

(g) *Documentation by certifiers and testing parties.* Each certifier and testing party must provide the following documentation, either in hard copy or electronically, to a certifier relying on such documentation as a basis for issuing a certificate:

(1) Identification of the component part or the finished product tested;

(2) Identification of a lot or batch number, or other information sufficient to identify the component parts or finished products to which the testing applies;

(3) Identification of the applicable rules, bans, standards, and regulations for which each component part or finished product was tested;

(4) Identification of the testing method(s) and sampling protocol(s) used;

(5) The date or date range when the component part or finished product was tested;

(6) Test reports that provide the results of each test on a component part or finished product, and the test values, if any;

(7) Identification of the party that conducted each test (including testing conducted by a manufacturer, testing laboratory, or third party conformity assessment body), and an attestation by the party conducting the testing that all testing of a component part or finished product by that party was performed in compliance with applicable provisions of section 14 of the CPSA, part 1107 of this chapter, or any more specific rules, bans, standards, or regulations;

(8) Component part certificate(s) or finished product certificate(s), if any;

(9) Records to support traceability as defined in § 1109.4(m); and

(10) An attestation by each certifier and testing party that while the component part or finished product was in its custody, it exercised due care to ensure compliance with the requirements set forth in subparagraph (b) of this section.

(h) *Effect of voluntary certification.* (1) The Commission will consider any certificate issued by a component part certifier in accordance with this part to be a certificate issued in accordance with section 14(a) of the CPSA. All certificates must contain all of the information required by part 1110 of this chapter.

(2) Any party who elects to certify compliance of a component part or a finished product with applicable rules, standards, bans, or regulations, must assume all responsibilities of a manufacturer under sections 14(a) and 14(i) of the CPSA and part 1107 of this chapter with respect to that component part or finished product's compliance to the applicable rules, standards, bans, or regulations.

(i) *Certification by finished product certifiers.* (1) A finished product certifier must exercise due care in order to rely, in whole or in part, on one or more of the following as a basis for issuing a finished product certificate:

(i) Finished product certificate(s) issued by another party;

(ii) Finished product test report(s) provided by another party;

(iii) Component part certificate(s); or

(iv) Component part test report(s).

(2) If a finished product certifier fails to exercise due care in its reliance on another party's certifications or test reports, then the Commission will not consider the finished product certifier to hold a certificate issued in accordance with section 14(a) of the CPSA. Exercising due care in this context means taking the steps that a prudent and competent person in the same line of business would take to conduct a reasonable review of another party's certification or test reports, and to address any concern over their validity, before relying on such documents to issue a finished product certificate.

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Due care does not permit willful ignorance. Such steps may vary according to the circumstances.

(3) A finished product certifier must not rely on another party's certifications or test reports unless the finished product certifier receives the documentation under paragraph (g) of this section from the certifier or testing party. The finished product certifier may receive such documentation either in hard copy or electronically, or access the documentation through an Internet Web site. The Commission may consider a finished product certifier who does not obtain such documentation before certifying a consumer product to have failed to exercise due care.

(j) *Recordkeeping requirements.* Each certifier or testing party must maintain the documentation required in paragraph (g) of this section for five years, and must make such documentation available for inspection by the CPSC upon request, either in hard copy or electronically, such as through an Internet Web site. Records may be maintained in languages other than English if they can be:

(1) Provided immediately by the certifier or testing party to the CPSC; and

(2) Translated accurately into English by the certifier or testing party within 48 hours of a request by the CPSC or any longer period negotiated with CPSC staff.

Subpart B—Conditions and Requirements for Specific Consumer Products, Component Parts, and Chemicals

§ 1109.11 Component part testing for paint.

(a) *Generally.* The Commission will permit certification of a consumer product, or a component part of a consumer product, as being in compliance with the lead paint limit of part 1303 of this chapter or the content limits for paint on toys of section 4.3.5.2 of ASTM F 963-08 or any successor standard of section 4.3.5.2 of ASTM F 963-08 accepted by the Commission if, for each paint used on the product, the requirements in § 1109.5 and paragraph (b) of this section are met.

(b) *Requirement.* For each paint used on the product:

(1) Unless using the test method ASTM F 2853-10 to test for lead in paint, all testing must be performed on dry paint that is scraped off of a substrate for testing. The substrate used need not be of the same material as the material used in the finished product or have the same shape or other characteristics as the part of the finished product to which the paint will be applied; and

(2) The tested paint is identical in all material respects to that used in production of the consumer product. The paint samples to be tested must have the same composition as the paint used on the finished product. However, a larger quantity of the paint may be tested than is used on the consumer product in order to generate a sufficient sample size. The paint may be supplied to the testing laboratory for testing either in liquid form or in the form of a dried film of the paint on any suitable substrate.

§ 1109.12 Component part testing for lead content of children's products.

A certifier may rely on component part testing of each accessible component part of a children's product for lead content, where such component part testing is performed by a third party conformity assessment body, provided that the requirements in § 1109.5 are met, and the determination of which, if any, parts are inaccessible pursuant to section 101(b)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) and part 1500.87 of this chapter is based on an evaluation of the finished product.

§ 1109.13 Component part testing for phthalates in children's toys and child care articles.

A certifier may rely on component part testing of appropriate component parts of a children's toy or child care article for phthalate content provided that the requirements in § 1109.5 are met.